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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,879

09/10/2003

David Matthew Oles

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7590

08/03/2009

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EXAMINER

RENDON, CHRISTIAN E

ART UNIT

PAPER NUMBER

3714

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/660,879	<b>Applicant(s)</b> OLES ET AL.	
	<b>Examiner</b> CHRISTIAN E. RENDÓN	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 17-25, 28 and 33-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 17-25, 28 and 33-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/17/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to the amendment filed 6/17/09 in which applicant amended claims 1, 3, 5-7, 9-10, 17-21, 24-25, 28; canceled claims 11-16, 26-27, 29-32; added new claims 34-40; responded to the claim rejections. Claims 1-10, 17-25, 28 and 33-40 are still pending.

### ***Examiner's Position***

The references applied in this action are both machines that accept items containing worth; specifically these machines are called automatic teller machines (ATM). In addition, gaming machines located in public locations such as arcades and casino also accept items considered valuable. Therefore the Examiner considers an ATM analogous art towards a gaming machine in terms of security, identification and verification systems.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The language states a peripheral is related to a second triggering event; however the Examiner is confused by "other than the at least one peripheral that caused the second triggering event". Appropriate corrections are required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill

in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-10 and 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBan (US 5,386,103) in view of Barnett (US 6,068,184).**

Introduction of DeBan reference

1. DeBan presents an invention that provides an improved customer identification and verification system (DeBan: col. 1, lines 42-43) towards cashing documents (DeBan: col. 1, lines 6-7). The system includes a customer ID card or “smart card” for storing a person’s universal face space (UFS), which is a mathematical representation (DeBan: col. 6, lines 40-44) of a person’s facial characteristics (DeBan: col. 4, lines 40-41). Thus the values are stored on the person’s customer ID card or “smart card” (DeBan: col. 9, lines 59-65) and when the person swipes the card in the magnetic card reader (DeBan: fig. 2, 32) a verification process begins that will confirm a person’s identity. A comparison is made between the card’s values and the values generated from a current image of the person that is obtained from a camera (DeBan: fig. 1, 36) located inside towards the front of an ATM (DeBan: col. 7, lines 1-5). A successful match results in the authorization of the user to make cash transactions (DeBan: col. 1, line 54).

Introduction of Barnett

2. The reference discloses a security system (Barnett: col. 4, lines 63-64) for an ATM or card machine that is capable of charging a consumer or credit/debit a financial account (Barnett: col. 5, lines 24-28). When a fake card is scanned the security system of the card machine activates (Barnett: fig. 3) and records a real-time video/audio feed of the assailant in an attempt to obtain evidence that will identify the assailant's voice and personal characteristics (Barnett: col. 9, lines 25-32).

3. Regarding claims 1 and 24-25, DeBan teaches the **authorizing the use of a card** (DeBan: col. 1, lines 54-55) applied to a machine. **Stored** on said card contains a **generated** mathematical representation (DeBan: col. 6, lines 40-44) of a person’s **facial information** (DeBan: col. 4, lines 40-

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41). Thus swiping said card at a machine cause a computer program to **read and compare the first facial information to current facial information** (DeBan: col. 7, lines 1-5). In an attempt to confirm the card holder is the card owner (DeBan: col. 2, lines 10-20) the machine uses a camera **36** (DeBan: col. 3, lines 27-28) or an **image collection device** as a means of **obtaining current facial image information**. However, the prior art remains silent towards obtaining audio information. As stated above, Barnett teaches **obtaining and storing audio and video information in response to a triggering event** (Barnett: col. 9, lines 25-32). In addition, Barnett discusses building on existing technology to create a security system that works against fraud, theft and violence (Barnett: col. 4, lines 15-18). The security system disclosed by DeBan utilizes biometric authentication hence limiting the effectiveness of fake/stolen credit cards and “shoulder surfing” for PIN numbers. However, Barnett discloses the technology’s inability of preventing a thief from coercing a person into granting them access (Barnett: col. 3, lines 15-18). Therefore it would have been obvious to an ordinary artisan to combine DeBan with Barnett in an attempt to create a stronger security system. Also it would have been obvious to an ordinary artisan that the disclosed real-time audio feed (Barnett: col. 9, lines 25-26) is picked up by a **microphone** included or separate from the surveillance camera.

4. As stated above, the security concerns of an ATM and a gaming machine are one in the same. DeBan further explains that the system “can be applied to securities system, for example, or any system which so requires a personal identification” (DeBan: col. 10, lines 33-36). Thus preventing and capturing criminals who try to use a stolen casino card. In addition, Barnett discloses an ATM or card machine that is capable of charging a consumer or credit/debit a financial account (Barnett: col. 5, lines 24-28).

5. Regarding claim 2, Barnett discloses storing and transmitting of video/audio information of an assailant to the security firm dispatcher (Barnett: col. 9, lines 25-30) in a remote location through a provided network (Barnett: fig. 4). Therefore the art combination teaches **transmitting current facial**

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**image information of a person to a remote location in the event the current and first facial image information do not match.**

6. Regarding claims 3-4 and 10, the art combination discloses **capturing image information utilizing a mounted camera located in the front and inside the machine** (DeBan: fig. 1, 36).

7. Regarding claims 7-9, a new customer must first approach the human teller station (fig. 1, 14) to open a new account. The human teller station contains a digital ccd array (DeBan: col. 3, lines 16-18) thus **the first facial image information is performed using a digital camera**. In addition, the human teller station is in a remote location compared to the ATM (DeBan: fig. 1).

8. Regarding claims 5-6, DeBan discloses the option of using a high-resolution camera or a digital ccd array to record the **first facial image** (DeBan: col. 3, lines 16-18) and **current facial images** (DeBan: col. 3, lines 28-29). Therefore the type of camera is a choice left up to the owner of the ATM system to make based on their specific needs. One of ordinary skill would also recognize that the option of an **analog camera** would require the use of an analog to digital **converter** since DeBan discloses that the data on the ATM card is recorded digitally (col. 6, lines 44-46).

9. Regarding claims 17-18 and 21-23, the disclosed ATM responses to each **card insert** or swipe with the comparison of the first and current facial images in an attempt to **confirm that the person using the card is the party to whom the card was issued** (DeBan: col. 9, lines 58-67). Therefore the art teaches **sensing a second triggering event from a peripheral and capturing a current facial image in response**. As stated above, the art combination teaches the use of a network (Barnett: fig. 4) or **communication link to a remote location for communicating user interaction** (Barnett: col. 10, lines 51-65) **with a peripheral** as an **alarm condition** (Barnett: col. 11, lines 46-47).

10. Regarding claims 19-20, it is well known in the art of gaming for a **triggering event to occur during the operation of a game**. DeBan and Barnett are silent about the use of this identification and verification system in a gaming machine. However, DeBan further explains that this system "can

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be applied to securities system, for example, or any system which so requires a personal identification" (col. 10, lines 33-36). Although an ATM is not a gaming machine, both of them dispense objects of value therefore both of them require security measures to insure the well being of the user and the integrity of the machine. Therefore when the prior art combination is applied as a gaming machine, a processor or gaming controller would control the **camera and would be in communication with other peripherals.**

**Claims 28 and 33-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBan in view of Barnett and Enright et al. (US 6,583,813 B1).**

11. The art combination described above and its limitations are considered within this art rejection as well. The discussed references remain silent towards capturing an image of the user during the dispensing of cash.

12. Regarding claim 28, the limitations that are also found in claims discussed above are rejected under the same rational. The art reference considers the presentation of cash to a customer as a triggering event that causes an image capture event (Enright: col. 20, lines 53-55). It would have been obvious for an ordinary artisan to incorporate Enright with the previous art combination due to the teachings found in Barnett regarding the improvement of security systems with existing technology and proper tools (Barnett: col. 4, lines 15-18). Therefore the art combination teaches a **second trigger event initiated by a payout event wherein a second facial image is obtained.**

The art combination would then **compare the first and second facial image** as taught by DeBan to confirm the person's identity. It is well known in the art that a person's image is a form of identifying data that has been used in the past by financial institutions, for example some banks offer printing the person's image on bank checks or **payout ticket** for verification purposes (DeBan: col. 6, line 47-48).

13. Regarding claims 34-40, Barnett discloses recording real-time video/audio feed of the assailant in an attempt to obtain evidence that will identify the assailant's voice and personal characteristics

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(Barnett: col. 9, lines 25-32). Thus teaching **storing associated image and audio information**.

Enright teaches **triggering event** comprising **detected motion** (Enright: col. 36, lines 1-3) or **audio** in the form of **sound or a voice** (Enright: col. 38, lines 18-21).

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### **Previous Response to Arguments**

14. Applicant's arguments filed 6/26/08 have been fully considered but they are not persuasive. Artino describes creating a visual record of the transaction by capturing images periodically or continuously (Artino: col. 17, lines 50-54) therefore the system is able to capture an image of a person accessing the depository or interior of the ATM during a transaction. Additionally, the system is able to capture images of a person tampering with the ATM through shaking (Artino: col. 7, line 35) or 'fishing' for items out of the depository (Artino: col. 1, lines 40-42). Both scenarios are considered activities associated with accessing the interior of the machine. As stated above, DeBan teaches implementing the disclosed security features in any system that requires a personal identification (DeBan: col. 10, lines 33-36) before granting access to a transaction that involves cashing documents (DeBan: col. 1, lines 43-45) like cash, casino money, anything of value, etc. Therefore DeBan teaches the applicant's second verification process during a payout and every other triggering event that involves providing money to a user; thus requiring the verification of the user. Furthermore as stated above Artino teaches programming the system to capture an image of a user continuously during a transaction (Artino: col. 17, lines 54-55) therefore also teaching the collection of multiple images for identification purposes.

### **Examiner's Note**

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Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R.

1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims is patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN E. RENDÓN whose telephone number is (571)272-3117. The examiner can normally be reached on 9 - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/  
Supervisory Patent Examiner, Art Unit 3714

/CHRISTIAN E RENDÓN/  
Examiner Art Unit 3714  
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